A

LETTER

VVritten to a Friend,

A

MEMBER

IN THE

Houſe of Commons

IN THE

PARLIAMENT

Convened *May* 8. MDCLXI.

CONCERNING THE

Court of Wards.

LONDON,
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A Letter written to a Friend, a Member in the Houſe of Commons, in the Parliament convened May VIII. 1661. *concerning the* Court of VVards.

SIR,

COncerning what we laſt diſcourſed of in the Country, I have (as you deſired) given you now my reſult more fully under my hand. For words ſcatter with the Air that breaths them: 'tis only *Litera ſcripta* that doth *manere.*

That Tenures *In Capite* and by Knights-ſervice are antient in this Kingdom, I need not prove; *Lippis & Tonſoribus notum eſt.* I am ſure to you, and all that have lookt into the Laws of this our Iſland. They were uſed in King *Canutus*, *Ina*, and *Alfreds* dayes, tranſlated ſince out of *England* into *Normandy*, by our *Edward* the Confeſſour, and ſo of no novel conſtitution.

That there ought to be a dependency of the Subjects upon the Soveraign, is as certain: Soveraign and Subject, like Maſter and Servant, being relatives. Nay the Learned Sir *H. Spilman* ſayes, that the inferiour Tenants ſerving the Meſne Lords, and conſequently the King in his wars, is a duty the people are bound to, *Non ſolum jure poſitivo, ſed & gentium, & quodammodo naturæ.* That this Prerogative then was antiently in force, for the neceſſary defence of King and Subject, as of Lord and Tenant (whoſe protections reſpectively flow from this homage) *pro confeſſo eſt.* I ſhall next argue that Knights-ſervice is *ex debito*, and not *ex mera voluntate*; therefore not to be excuſed, or taken off, ſo long as the Tenant enjoyes the land *in capite* Tenure. The tie then is the ſtricter, becauſe *conditionaliter*; he being thus bound to the defence of the King, and all his juſt Rights and Juriſdictions.

The main Quære then will be, why this ſo antient and fundamental a Prærogative may not be ſtill continued for the ſafety of Prince

Prince and People? Since none so fit to serve in the wars, as Chivaliers thus obliged to it; none so fit to be trusted with the Guard of the Kings person, as Persons of Honour, to whom such lands were purposely given for that service; and since such Gentlemen are more agile, expert, couragious, and lesse subject to treachery, then we can reasonably expect Mercenaries will be, *Ex infima plebe*.

It hath been objected I know by some, that it is a badg and Relique of the *Norman* slavery, which the Gentry and Free-born people of *England* cannot now submit to: *viz.* That their heirs estate should be under a Rent, and he or she married at the Guardians pleasure. Herein I confess you are somewhat concerned, did not your duty to your common Parent (as I hope) exceed your parental love to your own children.

But we shall easily pass this Rubicon. The learned *Coke* in his Institutes saith, that Knights-service (which did draw to it Ward, Marriage and Relief) was as ancient as K. *Alfreds* time; therefore no *Norman* imposition; the *Norman* (as I said) borrowing the same from us. How come we then to be better or more priviledged then our Ancestours before the Conquest?

But I shall make it appear that it is not only no slavery, but a mark and badg of Honour; by those Royal Immunities and Priviledges such Tenants enjoy, above all others. And they are these, not inferiour to those the *Equites Romani* once enjoyed, when all the conquer'd world, as well as the Senate bowed under *Cæsars* Empire.

First it is *Servitium Regale*, or *Servitium militare Domini Regis*, and then only when he goes in person to the wars, as *Britton* observes.

Next, they are freed from the payment of other Aids & Tallages.

Next, this *Equitatura* (for by Arms our Gentry first arrived their honour of Chivalrie) gives them a priority of belief as Witnesses before inferiours; the Oathes of two Gentlemen carrying more Credence, then of a multitude of *Plebeians*, who are *sine nomine turba*, and so scarce *fide digni*. Besides it advanceth them to the honour of wearing purple, Gold Rings, Coats of Arms, and Seals, of making Statues for their Ancestours; it exempts them from

mean ones, and qualifies them for the beſt employments. In criminal offences, ſuch have a priviledge to be beheaded, and not hanged. And laſtly, their heirs in their minority in the wars, are protected in their perſons and eſtates, are vertuouſly educated in Learning and Feats of Arms, and are married in their own or better rank without diſparagement. *Ergo* no ſlavery in that Royal Tenure, which the Wiſdom of Antiquity hath ſo long juſtified.

That there is no Injuſtice or pretended grievance in them, is as manifeſt. For the attending the King in his wars for fourty dayes, is a ſervice incumbent upon all eſtates and degrees of men whatſoever, though their lands were purchaſed or held by other tenure. Whereas Knights-ſervice is only exacted where the lands were given them for that very purpoſe. So that *ex pacto* the Donor may juſtly expect the ſervice, nor can they in reaſon refuſe the duty, the lands being derived *cum onere ſervitii.*

If then the tenure in Knights-ſervice be the moſt ancient, noble, and beſt of tenures; if juſt and neceſſary for the ſafeguard of King and Subject; if it prove the beſt Feather in the Tenants Cap, and choiceſt flower in the Regal Diadem; who can ſay *Latet anguis in herba*? or where lay all this poiſon for ſo many hundred years hid and undiſcovered?

Yet, admit it were a burthen; cannot we be content to ſubmit to it, as well as all our Anceſtours? And with like fealty to our moſt lawful and Gracious Soveraign (whom God long preſerve, and to whom we owe the ſame Allegiance by the Laws of God and Nature) when we could truckle of late (too many of us I mean) and ſubmit to the yoak of abſolute Tyranny from our equals if not our inferiours? Or cannot the Country be as willing to bear it, as the Citie of *London* and ſome others, that ſtill retein their Courts of Orphans, and which may in ſome reſpects (if not all) be thought more oppreſſive and inſupportable? Are we no ſooner warm under the rayes of Majeſty, but we muſt ingratefully ſnatch the Plumes from out the Imperial Eagles wings to cover our own monſtrous deformities? *Turpius ejicitur quam non admittitur hoſpes*: ſaid the

the Poet truly enough. We might as well almoſt (I am ſure with leſs diſgrace to ſo indulgent a Soveraign) have kept him out when baniſhed; as to entertain him with ſpetious ſhews of Loyalty and kindneſſe, and then expulſe him out of his antient Demeſne, by deveſting him of that Royal Mantle He and his Predeceſſors have enjoyed and worn ſo many hundred years without the leaſt diſpute. I heartily wiſh the like fate may never arrive him, as did the innocent Lamb, who permitted the greedy Crow to pirk and play ſo long about his head, till at laſt he had pickt out both his eyes. I dare averr there can be no more *Salus populi* (as is pretended) where the King chiefly ſuffers by being thus blooded in the Capital vein or great Arterie, then there can be *Salus corporis*, where there is a violent Headach: For that being *Caput doloris*, the inferiour parts by aſſimilation muſt needs condole and participate of its anguiſh. The King parts with his vital ſpirits of Regality; and the Feet, the people muſt needs languiſh, as unable to uphold the Fabric. The Commons, Ile maintain it, are no more eaſed by this alienation of Knights-ſervice into Socage, then the ſilly aſſe was, who ſeeing the Camel laden with Salt paſs lightly through the River (where moſt of it was melted) he being laden with Wooll thought he might paſs through too with the ſame dexterity, but his wet load made him ſink under his grievous errour. The burthen forſooth (as it muſt now be phraſed) is taken off the Gentries ſhoulders and layd upon the ſtrong, tho poor peoples backs. Wardſhips and ſervices taken off their eſtates, and a muldy Exciſe entailed upon the Mechanicks and Day-labourers that have no land at all; for ſuch as live from hand to mouth chiefly pay it.

The people were ſwallowing the like Gudgeon once before. When they were with a general outcry to de-cry Tithes (as affairs did then paſs with noiſe and clamour) they verily believed each ſhould pocket up his own Tithes, due only to the Church. They falſly ſuppoſed themſelves to be rarely eaſed by it at leaſt; when their fly Taſkmaſters intended only to enrich themſelves by a more ſevere inquiſition after them, and couſenage both of them

and

and their Paſtours; they ſhould all have been meerly ſtipendiaries.

But though the people have been thus too often gull'd by thoſe *Ægyptian* Mountebanks; it will not become you that are one of thoſe ſelect Members, choſen legally by the ſuffrage of the whole people whom you repreſent, to ſee them burthened, inſtead of being eaſed. Let us therefore ſeriouſly conſider, that as the pretended benefits are but ſmall that can accrue to the ſubject by altering theſe Tenures from a certain eaſie ſervice to an uncertain: ſo let us in the other balance weigh the many miſchiefs and inconveniences that muſt inevitably follow the loſſe of this ſo antient and glorious a Prærogative; it being the only firm pillar and *Baſis* of Monarchical Government. Beſides this, *I* ſhall name you but a few, that as *ex pede Herculem*, by a touch of theſe you may diſcover and imagine the whole maſſe of deformitie that lies buried under this *Chaos*.

Firſt, Unjuſt Father-in-lawes will pill and poll the Infants worſe than the Court ever did, or thoſe that are next of kin (who too often do it too) whilſt there is no Court to ſupervize their actions. Next, Younger Childrens portions will be ill raiſed, and worſe paid. There will be leſs care of educating them, and of preſerving the Wards Eſtate, Woods and Evidences: Leſs care of payment of Debts, or freeing the Eſtate from fraudulent wills and conveyances; all which and more, the wiſe Providence of that Court either prevented, or redreſſed. Next, The education of Recuſants heirs, or of ſuch as are diſaffected to the King and his Government, and to our Orthodox eſtabliſhed Religion, will be thus totally neglected. Next, Genealogies and Pedegrees cannot ſo well be preſerved, when the Offices *poſt mortem* are laid aſide. Through which neglect in time, there will be no diſtinction 'twixt Gentleman and Peaſant; with divers other ill conſequences both to King and People, which I omit, as unwilling to lanch out into the Ocean, to create your farther *nauſea*.

If then the andvatages to King and Subject are vaſt by the continuance

tinance of that Court of Wards in point of credit, as well as a more large and noble kind of Revenue; and the miſchiefs to all ſo great, by its final ſuppreſſion: All I ſhall farther offer to your ſublime judgement, is, That the Court may, by reforming the little abuſes therein, be ſet up *in ſtatu quo* as it was by the late Act of King *Jame's*: Leaving it to his Majeſties Will and gracious Favour, to what time the Fines due to him in that ſhall be remitted and pardoned, and to whom: It being a Maxim in Law and State, that the King cannot part with his *Jura Regalia*, nor can the People in conſcience preſume to take them away.

Let then, I ſay, that ſmoaky Exciſe rather, of Ale and Beer (which ſmells ſo ſtrong of the *Belgick* Democracy) totally vaniſh; as far unfit to ſteem in the clear and pure air of this Renowned and Monarchic Iſland. For if it ſhould be well paid (which I much doubt) yet the Gatherers and numerous Receivers would ſwallow half the Money, the People would be more and more oppreſſed by their exactions, and the King in time contract a general odium, which God forbid.

Let then, I ſay, all good Subjects unanimouſly endeavour to reſtore and give *Cæſar* his due, to re-inveſt his Sacred Majeſty in the antient and full ſplendour of his Royal Progenitours, that he and his may alwaies wear that Royal Purple and Sacred Gold, which he hath, through the malignity of the times, and infection of that too near adjoining Re-publick, been pleaſed to part with all for a few grains.

And, ſince it hath been ever deſtructive (if not fatal) to alter Fundamentals; let us all joyn in the ſame reſult our third *Henry* made, upon a Propoſal as unequal, of making Baſtardie legitimate, where the Parents after intermarried, and ſay with him, *Nolumus mutare leges Angliæ.* And let all good People ſay, Amen.

I have ſaid, but why thus much to you, you may perhaps admire, whom I have ever known a perfect Honourer of your King and his Regal Authority: Therefore I do it; Firſt, becauſe you will not take this ſeaſonable *Aviſo* amiſs: and next, becauſe poſſibly you may now make good uſe of it; in caſe this Seſſion

ſhall

ſhall think fit to ſet that Court up again, as one day *I* am very confident it will be eſtabliſhed. Tis true, more might have been ſaid in the defence of this ſo glorious a Prærogative, leſs *I* could not; to you eſpecially who did unwittingly in the croud conſent to the aboliſhment thereof. When *Cyrus* his dumb ſon ſaw one attempt his fathers aſſaſſination, immediately he cryed out, ſpake, and prevented the flagitious deſign. May my ſpeaking after ſo great a ſilence prevent the like intended miſchief againſt the common Father of us all the King, who is *Pater Patriæ*. *I* have ſeen the Sword long drawn to cut down the ſacred Tree of Monarchy, firſt lopping the Hedges that fenced it in, with intention to level Soveraignty by ſeveral undermining Policies, and now ſtriking at the very root of it by theſe publick attemps, and all under the falſe notion of its better preſervation.

And could *I* now forbear to ſpeak and bid the world bevvare? *I* ſpeak it to you, who I hope ſtand unbiaſſed with intereſts or paſſion, to you that are of a diſcerning judgement, and impartial underſtanding, to you that love both your King and Countrey cordially, to you whoſe ſingle Authority fixt on the Baſis of ſound reaſon, can withdraw a multitude from doing evil.

As the laſt was called a Healing Parliament, in cloſing thoſe wounds a long Civil war had made: So *I* hope this will deſerve the name of a *Confirming Parliament*; by an abſolute and perfect curing of them, which before were but little more than half skinned over: By a perfect ſetling the Church and State, in their old well-compoſed Diſcipline and Order: By re-inveſting his Sacred Majeſty in his antient Prærogatives and undoubted Rights, by a happy reſtoring every one to his own; and by a general Reſtauration of Peace, Unity and Unanimity in theſe three Kingdoms.

Your Pardon (SIR) for this long trouble I give you, in obedience to your Commands: and believe me, though this exceed the bounds of a Letter, yet it cannot exceed the limits of my duty to my Soveraign, or my affections to your ſelf (whom I ſo much honour, that being my chiefeſt ambition to be accounted

Sir, Your moſt humble ſervant

Darum, pridie Calend. *Maii*. R. H.
Ex agro Oxanfordienſi.